THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 15229 of 2004

Dated: 26.09.2005

Between:

Bigala Pandurangam, S/o. B. Ramulu,
R/o. Makloor Village & Mandal,

Nizamabad District.

..... PETITIONER

AND

The Senior Inspector/ Sale Officer,

The District Co-operative Central Bank Limited,
Nizamabad, Nizamabad District,

Sharadhagunj Branch, Nizamabad and others.

…. **RESPONDENTS**

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ORDER:

The petitioner and the third respondent are brothers. During the family partition, the petitioner has got a house bearing No.1-2 situated at Makloor village and open site admeasuring 700 square yards in S.No. 176 and the third respondent also got a house bearing No.1-1 situated at Makloor village and an open site admeasuring 700 square yards in S.No. 176, besides other properties. The third respondent availed a loan from the second respondent and failed to repay the same. Hence, respondents 1 and 2 initiated proceedings against the third respondent for recovery of the said amount and in that connection, a notice was issued in Form Nos. 6,7,8 and 9 of the Andhra Pradesh Cooperative Societies Rules, 1964 (for short “the Rules”) for conducting auction of the house bearing Door No.1-1 and also an extent of 1000 suqare yards in S.No.176, which includes an extent of 300 suqare yards belong to the petitioner. Objecting the inclusion of his extent of land in the said proposed

auction, the petitioner filed objections before the respondents 1 and 2 on 24.08.2004. However, without considering the same, respondents 1 and 2 are proceeding with the auction. Aggrieved thereby, this writ petition is filed.

A counter-affidavit has been filed on behalf of respondents 1 and 2 stating that the third respondent has availed a loan of Rs.1,00,000/- from the second respondent by mortgaging the property in question along with his house and as he failed to repay the loan amount, respondents 1and 2 are proceeding against the mortgaged property. The petitioner has not filed any records evidencing the partition and to show that the disputed extent fell to his share. Therefore, respondents 1 and 2 are proceeding against the mortgaged property and the petitioner cannot question the same. Therefore, they pray to dismiss the writ petition.

Heard learned counsel for the petitioner and the learned counsel appearing for respondents 1 and 2.

A perusal of the representation of the petitioner dated 24.08.2005 reveals that he requested the first respondent to conduct auction in respect of an extent of 700 square yards only and that he has also submitted a property tax receipt in respect of the property owned by him. But, nowhere it is mentioned that how the petitioner has got right, title and interest in respect of 300 square yards in the said survey number nor he has produced any document evidencing the alleged family partition. No doubt, as per Rule 52 (21)(a) of the Rules, where any claim is preferred or any objection is made to the attachment of any property on the ground that such property is not liable to such attachment, the officer concerned shall investigate the claim or objection and dispose it of, on merits. In the representation, the petitioner has not mentioned how he got right, title and interest over the disputed extent of 300 square yards of the land. The representation is vague and therefore, respondents 1 and 2 could not consider it and thereby proceeded with the auction of the property.

The writ petition is devoid of merits and the same is accordingly dismissed. No costs.

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26.09.2005

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